S.B. CIVIL MISC. APPEAL NO.1216/2006
(Ashok Kumar & ors. Vs. Madanlal & ors.)

DATED : 09.10.2006

HON'BLE MR. JUSTICE DINESH MAHESHWARI

Mr. P.R. Prajapat for the appellants.

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On 19.05.2001, the deceased Chautharam and so also his wife Kanya Devi and other son Jagdish perished in an accident involving a jeep RJ22 T 0553 they were traveling in and a tractor RSQ 5731 on Pali-Kerwa road. In Claim Case No. 575/2001 the present appellants, sons, daughter and mother of Chautharam claimed compensation stating the age of the deceased at 50 years, being engaged in a factory earning Rs. 1650/- per month and getting bonus of Rs. 3750/- per annum. The appellants Nos. 1 to 4 had also claimed compensation in separate claim applications on account of accidental death of their mother and brother. The Motor Accidents Claims Tribunal, Pali has decided the three claim applications together by its common award dated 29.06.2005.

By way of this appeal relating to Claim Case No.575/2001 the claimant-appellants seek enhancement over

the compensation amount of Rs.1,70,000/- awarded by the Tribunal on account of accidental death of Chautharam.

The Tribunal found the accident to have occurred for rash and negligent driving of the aforesaid jeep whose driver also expired in the same accident and held the respondents Nos. 4 & 5, owner and insurer of the jeep liable for compensation. While taking up quantification of compensation, the Tribunal took the age of the deceased Chautharam at 55 years with reference to his post mortem report and found proved annual income of the deceased at Rs. 23,528/- with reference to the evidence adduced by his employer, Dilip Kumar, AW-2, with salary at Rs. 1,650/- per month and bonus at Rs. 3,728/- per annum. The tribunal rounded up the income to Rs. 24,000/- per annum; deducted one-third on personal expenditure of the deceased and with application of multiplier of 8 with reference to the age of the deceased calculated pecuniary loss at Rs.1,28,000/-. The Tribunal also awarded Rs.2,000/- as funeral expenses and Rs.20,000/- as non-pecuniary loss and, therefore, made an award in the sum of Rs.1,70,000/- in favour of the claimants and allowed them interest at the rate of 6% per annum from the *date* of filing of the claim application.

Learned counsel appearing for the appellants has contended that looking to the age and income of the deceased, the amount awarded by the Tribunal remains too low and deserves suitable enhancement. Learned counsel also submitted that the Tribunal has erred in awarding interest only at the rate of 6% per annum.

Having examined the considerations adopted by the Tribunal and the award in its totality this Court is satisfied that this appeal remains bereft of substance and deserves to be dismissed.

The deceased was about 55 years of age and the Tribunal has accepted whatever proof of income of the deceased was adduced although so far bonus was concerned, according to the employer AW-2, an amount of Rs. 3,728/- was paid to the son of the deceased on 31.07.2001 towards bonus of the year 2000 after death of the victim. The tribunal has rounded up the income of the deceased rather on the higher side and then has applied maximum multiplier of 8 in view of the age of the deceased. The Tribunal has also allowed reasonably higher amount towards non-pecuniary loss. The Tribunal has of course awarded interest only at the rate of 6% per annum but in view of the reasonable award

made by the Tribunal, such choice of rate of interest in the award made in the year 2005 cannot be said to be unjustified.

In the ultimate analysis, this court is satisfied that the claimants have been allowed just compensation admissible in this case and the award cannot be said to be grossly inadequate.

In this view of the matter, there appears no reasonable ground to admit this appeal and the same is, therefore, dismissed summarily.

[DINESH MAHESHWARI], J.

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